

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.692 OD 2006
IN
SUIT NO. 686 OF 1998.

Mrs.Geeta Jayant Thakur. ... Plaintiff.
Versus.
Dr.R.V.Rath and others. ... Defendants.

Ms.Sujata A.Mahadgut for the Plaintiff in support of
the Chamber Summons.

Ms.Divya Sanghavi i/by Ms.Suman Jain for the Defendants
Nos.4 and 5.

CORAM : ABHAY S.OKA, J.

DATED : 2nd August, 2007.

P.C.:

1. Heard the learned Counsel for the Plaintiff in support of this Chamber Summons. I have also heard the learned Counsel appearing for the 4th and 5th Defendants. The learned Counsel for the Plaintiff states that other Defendants have been duly served with the Chamber Summons and the affidavit of service has been filed. The Plaintiff has filed the suit interalia for removing the 1st to 3rd Defendants as Trustees of a private Trust formed and established under a Deed of Trust dated 16th March 1944. A prayer is made for appointment of new Trustees in place and stead of the 1st to 3rd Defendants. The suit also contains a prayer for passing a decree directing the Defendants to grant to the Plaintiff all the entitlements, benefits,

interests and rights of whatsoever nature to the extent of her 1/4th entitlement in the benefits of the Trust and for furnishing the accounts of the Trust.

2. In the affidavit-in-support of the Chamber Summons, it is stated that the 1st Defendant who was a Trustee of the said private Trust died on 4th January 2006. The first amendment sought is for deleting the name of the 1st Defendant. It is stated in the affidavit-in-support that from the letter dated 12th January 2006, the Plaintiff learnt that one Mr. Pramod Kulkarni has been appointed as a Trustee on 1st October 2004. Therefore, a prayer is made for impleading the said Shri Pramod Kulkarni as a party Defendant No.1(a). Consequential amendments are sought for incorporating the necessary averments as a consequence of the death of the 1st Defendant and the impleadment of the Defendant no.1(a). It is contended that as a result of the death of the 1st Defendant who was having 1/4th notional share in the Trust property as a beneficiary, now the Plaintiff is entitled to 1/3rd share in the entire beneficial interest in the said Trust. The amendment is sought to be made for awarding 1/3rd share as a consequence of the death of the 1st Defendant.

3. The learned Counsel appearing for the 4th and 5th Defendants has no objection for grant of the

amendment.

4. A perusal of the affidavit-in-support as well as the text of the draft amendment shows that the same is necessitated by the events which have occurred during the pendency of the suit. The proposed amendment will not change the nature of the suit and the same is necessary for effectually adjudicating the dispute involved in the suit. Hence the Chamber Summons deserves to be allowed.

5. Accordingly the Chamber Summons is made absolute in terms of prayer clause (a). Amendment to be carried out within a period of six weeks.

6. Certified copy is expedited.

Judge.